

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

HEIRS OF FERNANDO MACIAS, STEVEN)
MACIAS, YVONNE SHILLING, AND)
WALTER MACIAS AND)
REPRESENTATIVE OF THE ESTATE OF)
FERNANDO MACIAS,)

Plaintiffs,

v.

5:21-cv-00193

BEXAR COUNTY, BEXAR COUNTY)
HOSPITAL DISTRICT, UNIVERSITY)
HOSPITAL, SHERIFF JAVIER SALAZAR,)
LAURA BALDITT, RUBEN VELA, BOBBY)
HOGELAND, JOHN DOES 1-5,)

Defendants.

NOTICE OF REMOVAL

Now come Defendants Bexar County, Sheriff Javier Salazar, and Laura Balditt (the “Bexar County Defendants”), and file this Notice of Removal.

INTRODUCTION

1. On December 14, 2020, Plaintiffs filed an Original Petition in Cause No. 2020-CI-23993 in the 131st Judicial District Court of Bexar County (the “State Court Action”). Plaintiffs’ Original Petition asserts federal constitutional and related state law claims arising from the death of Fernando Macias, who prior to his death had been a pretrial detainee at the Bexar County Adult Detention Center. A true and correct copy of Plaintiffs’ Original Petition is attached as Exhibit A. Plaintiffs’ Original Petition asserts that subject matter jurisdiction in this matter is governed by 28 U.S.C. § 1331 and 2001, and that venue arises under 28 U.S.C. § 1391(b).

2. The Citations for Bexar County, Sheriff Javier Salazar, and Laura Balditt were issued on February 2, 2021, and served on those Defendants on February 4, 2021. A true and correct copy of the Citations and Returns of Service on file with the State Court are attached as Exhibit B. The Bexar County Defendants file their Notice of Removal within the 30-day period required by 28 U.S.C. § 1446(b).

BASES FOR REMOVAL

3. Removal to this Court is proper because, on its face, the Original Petition sets forth claims under federal law for which this Court presents the proper venue and as to which this Court may exercise subject matter jurisdiction pursuant to 28 U.S.C. § 1331.

4. Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants remove this action to the United States District Court for the Western District of Texas, San Antonio Division, which is the judicial district and division in which the state court action is pending.

5. All pleadings, process, orders, and other filings served upon the Bexar County Defendants in the state court action are attached to this notice as required by 28 U.S.C. § 1446(a).

6. In accordance with 28 U.S.C. § 1446(b)(2)(A), all Defendants who have been properly joined and served consent to the removal of this action to this Court.

INDEX OF EXHIBITS

9. A true and correct copy of all pleadings, process, orders, and other filings served upon the Bexar County Defendants in the state court action are attached to this notice as required by 28 U.S.C. § 1446(a). Those filings consist of the following:

- a) Exhibit A: Plaintiff's Original Petition
- b) Exhibit B: Citations and Returns of Service for the Bexar County Defendants;
- c) Exhibit C: State District Court Docket Sheet.

JURY DEMAND

10. The Bexar County Defendants demand a jury trial as to all claims asserted by Plaintiffs.

CONCLUSION AND PRAYER

For the foregoing reasons, the Bexar County Defendants respectfully request that the Court uphold this removal and to retain jurisdiction over this suit.

Respectfully Submitted,

JOE GONZALES
Bexar County Criminal District Attorney

By: /s/ Robert Green
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CERTIFICATE OF SERVICE

I do hereby certify on the 1st day of March, 2021, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which provided electronic service upon all parties.

/s/ Robert Green
ROBERT D. GREEN